

REMARKS

By this Amendment, Applicants have amended claims 23, 27, 28, 33, and 42-44, and canceled claims 26 and 32 without prejudice or disclaimer of their subject matter. Accordingly, claims 23-25, 27-31, and 33-44 remain pending and under current examination. For the reasons presented herein, Applicants traverse the rejections set forth in the Office Action¹, which:

- (a) objected to the drawings;
- (b) rejected claims 42-44 under 35 U.S.C. § 101 as being directed to non-statutory subject matter; and
- (c) rejected claims 23-44 under 35 U.S.C. § 103(a) as being unpatentable over "the instant application's disclosed prior art."

Regarding the Objections to the Drawings

The Examiner objected to Figs. 1-3 for not being labeled as "Prior Art." See Office Action, p. 2. In response, Applicants attach to this paper two replacement sheets of drawings, in which Figs. 1 and 2 have been labeled "Prior Art." Fig. 3, however, does not merely illustrate "that which is old" (See Specification, p. 6, line 21 - p. 7, line 11), and therefore should not be labeled prior art. Accordingly, Applicants deem the objection to the drawings overcome. If for any reason the Examiner has further concerns about the drawings, Applicants request that the Examiner telephone the undersigned representative to discuss them.

¹ The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

Regarding the 35 U.S.C. § 101 Rejection of Claims 42-44

The Examiner rejected claims 42-44 "because the claimed invention is directed to non-statutory subject matter." Office Action, p. 2. In response to this rejection, and without conceding to the Examiner's arguments regarding alleged non-statutory subject matter, Applicants have amended claims 42-44. Applicants deem this rejection overcome, and respectfully request its withdrawal.

Regarding the 35 U.S.C. § 103(a) Rejection of Claims 23-44

Applicants request reconsideration and withdrawal of the rejection of claims 23-44 under 35 U.S.C. § 103(a) as being unpatentable over "the instant application's disclosed prior art." The rejection of claims 26 and 32 has been rendered moot by the cancelation of these claims, without prejudice or disclaimer of their subject matter.

The Examiner has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007). In particular, the Examiner has not properly determined the scope and content of the prior art. Specifically, the instant application's disclosed prior art does not teach or suggest what the Examiner attributes to it. In addition, the Examiner has not properly ascertained the differences between the claimed invention and the prior art, at least because he has not interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

The Examiner admitted that "[t]he instant application's disclosed prior art does not expressly teach that the sample sets are non-overlapping" Office Action, p. 3. According to the Examiner, however, "[o]ne of ordinary skill in the art would recognize that it is obvious an/or a design choice" to use sample sets that are non-overlapping. Office Action, p. 3. Contrary to the Examiner's allegations, the instant application's disclosed prior art does not teach or suggest at least:

transmitting, simultaneously, a first set ($X_1, X_2, \dots X_N$) of non-zero first samples pertaining to a first terminal of said plurality by inserting said first samples in the respective position assigned to said first terminal, and a second set ($X_{N+1}, X_{N+2}, \dots X_{2N}$) of non-zero second samples pertaining to a second terminal of said plurality by inserting said second samples in the respective position assigned to said second terminal . . .

as recited in amended claim 23. Nor does the instant application's disclosed prior art teach or suggest at least:

a first transmitter for transmitting, over a millimetre-wave carrier, assigned non-overlapping sets comprising at least one first set ($X_1, X_2, \dots X_N$) of samples in said integral-transformed format;

a second transmitter for transmitting, over a millimetre-wave carrier and simultaneously with the first transmitter, assigned non-overlapping sets comprising at least one second set ($X_{N+1}, X_{N+2}, \dots X_{2N}$) of samples in said integral-transformed format; . . .

as recited in amended claim 28.

Applicants' specification states that "existing WLAN standards, . . . refer to only one channel being used at a time for each access area." Specification, p. 4, lines 10-12. Therefore, according to the instant application's disclosed prior art, it was not

known to, in a WLAN network, "use, simultaneously, a corresponding plurality of channels." Specification, p. 4, lines 8-9.

Moreover, Applicants' specification discloses that "[i]n conventional OFDM transmission, the N non-zero samples are usually allotted -- the same -- position within the buffer 43." Specification, p. 9, lines 27-29. And "[c]onsequently, transmission of data from the various stations . . . must be staggered over time" Specification, p. 9, lines 32-35. But, Applicants recognize that by using:

the arrangement described herein, a given local station (hereinafter "station 1") will place its N non-zero samples X_1 , X_2 ..., X_N to be transmitted at a given instant of time in the first N positions of the buffer 43, . . .

Another station (hereinafter "station 2"), will place its set of N non-zero samples to be transmitted at the same instant of time in the positions X_{N+1} to X_{2N} in the buffer 43, these N positions, being non-overlapping with the positions X_1 to X_N allotted to "station 1", representing a second channel in the system.

Specification, p. 10, lines 7-20 (emphasis added). Therefore, the instant application's disclosed prior art does not teach or suggest at least Applicants' above quoted claim recitations.

Thus, the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. In view of the reasoning presented above, Applicants therefore submit that independent claims 23 and 28 are not obvious over the instant application's disclosed prior art and that the claim elements quoted above would not have been predictable to one having ordinary skill in the art at the time of the invention. Independent claims 23 and 28 should therefore be allowable. Dependent claims 24, 25, 27, 29-31, and 33-44

should also be allowable at least by virtue of their respective dependence from non-obvious base claim 23 or 28. Accordingly, Applicants request withdrawal of the 35 U.S.C. § 103(a) rejection.

Conclusion

Applicants respectfully request reconsideration of the application and withdrawal of the objection and rejections. Pending claims 23-25, 27-31, and 33-44 are not rendered obvious by the cited reference. Accordingly, Applicants request allowance of the pending claims.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

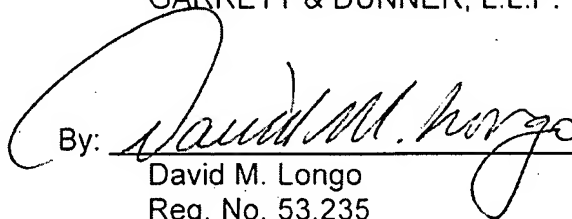
Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 12, 2009

By:



David M. Longo
Reg. No. 53,235

/direct telephone: (571) 203-2763/

Attachments: Two (2) Replacement Sheet containing Figs. 1-2